

City of San Diego/Homeowner Brush Management Access Agreement

Identification of Parties

1. This Access Agreement (hereafter referred to as "the Agreement") is entered into on _____ by and between _____, hereafter referred to as "Homeowner," and the City of San Diego, hereafter referred to as "City."

Description of Property

2. Homeowner is the owner of certain real property situated in the City of San Diego, California (hereafter referred to as the "the Property"), located at _____, parcel number _____ and more particularly described in Exhibit A, which is attached to this Agreement and hereby incorporated by reference.

Grant of Access

3. Homeowner grants to City permission to perform the following acts on the Property: to enter upon the Property solely for the purpose of ingress and egress to perform brush management activities in City Open Space. City may not use the Property for any other purpose or business without obtaining Homeowner's prior written consent.

Incidental Rights

4. The Agreement includes the following incidental rights to use the Property: all rights incidental to performing brush management activities in City Open Space. In exercising these rights, City must use reasonable care and may not unreasonably increase the burden on the Property.

Assignment

5. This Agreement shall not be assigned by either party without the prior written consent of the other party.

Term

6. This Agreement shall be for a term of one year, commencing on the date of this Agreement.

Noninterference

7. City shall not unreasonably interfere with Homeowner's use of the Property, and City shall follow such procedures as shall result in the least inconvenience to Homeowner.

Termination of Occupancy

8. On or before the termination date for this Agreement specified in Paragraph 6 of this Agreement, City shall remove all of City's personal property from the Property and shall surrender possession of the Property to Homeowner in good order and repair, normal wear and tear excepted.

Indemnity

9. City agrees to defend, indemnify, protect and hold Homeowner harmless from and against any and all claims or liability directly related to performance of this Agreement and arising from the established active negligence, sole negligence, or sole willful misconduct of City, its elected officials, officers, representatives, agents and employees.

Insurance

10. City warrants that it is self-insured in compliance with the Laws of the State of California, that its self-insurance covers persons acting on its behalf and under its control, and that its self-insurance covers this Agreement and the use of the Property as contemplated by the Access Agreement.

Attorneys' Fees

11. If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action or proceeding by the prevailing party.

Entire Agreement

12. This Agreement constitutes the entire agreement between Homeowner and City relating to the Access Agreement. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by Homeowner and City.

Notices

13. Unless otherwise provided, any notice or other communication regarding this Agreement shall be in writing and deemed received upon personal service, delivery or by reputable overnight service with receipt signature required, or delivery by United States mail, return receipt requested, and addressed to the parties as follows:

Homeowner:

City: The City of San Diego
Park and Recreation Department
Open Space District Manager
1250 Sixth Ave, 4th Floor
San Diego, CA 9210

IN WITNESS WHEREOF, this Permit is executed to be effective as of the Effective Date.

Date: _____
(Property Owner)

Date: _____ THE CITY OF SAN DIEGO, a California municipal corporation

BY: _____
Open Space District Manager
Park and Recreation Department
City of San Diego

APPROVED AS TO FORM AND LEGALITY:

Date: _____ MICHAEL J. AGUIRRE, City Attorney

BY: _____
Kimberly Ann Davies
Deputy City Attorney